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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/651,817	08/28/2003	Janos Kertesz	KN-61	9560

7590 06/28/2005  
Friedrich Kueffner  
Suite 910  
317 Madison Avenue  
New York, NY 10017

EXAMINER
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HEWITT, JAMES M

ART UNIT	PAPER NUMBER
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3679

DATE MAILED: 06/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/651,817

Applicant(s)

KERTESZ, JANOS

Examiner

James M Hewitt

Art Unit

3679

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 8/28/03, 12/29/03 and 4/6/05.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) 3 and 13-26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 4-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 8/28/03 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 8/28/03, 12/29/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Election/Restrictions*

Applicant's election of Species II in the reply filed on 4/6/05 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Applicant indicated that claims 1-2, 4-5, 8-13, 18 and 21-26 are readable on the elected species. This is incorrect. Claims 13-26 are clearly drawn to Species III (Figures 4 & 5), as claim 14 requires the second component to at least partially enclose the first component. And, as claims 6-7, which were not indicated by Applicant to be readable on the elected species, clearly are, as claim 6 requires a third component which is enclosed by the second component. Claims 1-2 and 4-12 are readable on elected Species II.

Thus, claims 3 and 13-26 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 4/6/05.

### *Priority*

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the subject matter of claim 12 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

Claims 4-5 are objected to because of the following informalities:

In claim 4 line 4, "part" should be "member" in order for "the annular part" to have proper antecedent basis.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-2 and 4-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1 lines 21-23, the phrase "at a distance that is as large as possible or a greatest possible distance" is vague and indefinite

In claim 1 line 25, the phrase "the still formable core" is confusing. First, the formable core has not previously introduced in the claim, and lacks antecedent basis. Second, it is unclear as to what the term "still" modifies. As there was no formable core previously recited, and it is unclear as to how this core came to be formable, it is unclear as to how this core can be said to be "still formable".

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 3679

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Ticona (EP 1 095 962 A).

Per Applicant's explanation of relevance (see European Search Report submitted with the IDS filed 12/29/03), Ticona discloses all the limitations of claims 1-2 and 4.

Claims 1-2 and 4-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Rasmussen (EP 1 063 078 A).

Per Applicant's explanation of relevance (see European Search Report submitted with the IDS filed 12/29/03), Rasmussen discloses all the limitations of claims 1-2 and 4-5.

Note that as claims 5 is inclusive of the limitations of claim 4, claim 4 is also grouped in the rejected claims.

Claims 1 and 6-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Werner et al (DE 100 48 973 A).

Per Applicant's explanation of relevance (see European Search Report submitted with the IDS filed 12/29/03), the Werner et al discloses all the limitations of claims 1 and 6-9.

Note that as claims 6-9 are inclusive of the limitations of claim 1, claim 1 is also grouped in the rejected claims.

Claims 1-2, 4, 6-10 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Aoki et al (US 6,408,867).

With respect to claim 1 and referring to Figure 6 and column 7 lines 6-27, Aoki et al discloses a part for connecting fluid line to an opening of a container comprised of thermoplastic material or for closing the opening of the container, the part comprising: a first component (92) and a second component (94) comprised primarily of thermoplastic material wherein the first component has a surface to be connected to the container; wherein the material of the first component (e.g. PE) is configured to form with the thermoplastic material of the container a heat fusion joint via the surface by welding but has no sufficient diffusion barrier capability relative to hydrocarbon fuel; wherein the material of the second component (e.g. EVOH), in comparison to the material of the first component, has a significantly higher diffusion barrier capability, a reduced swelling capability relative hydrocarbon fuel, a higher mechanical strength, even after hydrocarbon fuel exposure, and a higher wherein the material of the encloses the second component at least up to an injection location (interpreted as any given location that allows for material to be injected thereat) positioned so as to face away from the surface at a distance that is as large as possible or a greatest possible thermal shape stability; first component distance.

Regarding the limitation "wherein the material of the second component is injected into the still formable core of the material of the first component via the injection location", the method of forming the device is not germane to the issue of patentability of the device itself. Therefore, this limitation has not been given patentable weight.

With respect to claim 2, wherein the part is a tubular part and has a tubular wall, and wherein the material of the second component fills most of a length of the tubular wall. Refer to Figure 6.

With respect to claim 4, wherein the part is a tubular part, wherein the first component comprises an annular member (92 with the extension 72b as shown in Figure 5) having the surface, wherein the material of the second component extends from the annular member to an end of the tubular member remote from the surface.

With respect to claims 6 and 7, further comprising a third component (62), wherein the second component encloses the third component, wherein the third component (polyacetal matrix in polyethylene) increases at least one of the properties of the part selected from the group consisting of strength, diffusion barrier capability, and thermal shape stability.

With respect to claim 8, wherein the first component is comprised of polyolefin and is heat-fusible with the thermoplastic material of the container.

With respect to claim 9, wherein the polyolefin is functionalized polyethylene.

With respect to claim 10, wherein the second component comprises EVOH.

With respect to claim 12, wherein the part is substantially U-shaped in cross-section and closes off the opening of the container.

Claims 1-2, 4-5, 8-10 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Kurihara et al (US 2002/0079694).



With respect to claim 1 and referring to Figure 3, Kurihara et al discloses a part for connecting fluid line to an opening of a container comprised of thermoplastic material or for closing the opening of the container, the part comprising: a first component (50a) and a second component (10) comprised primarily of thermoplastic material wherein the first component has a surface to be connected to the container; wherein the material of the first component (e.g. olefin) is configured to form with the thermoplastic material of the container a heat fusion joint via the surface by welding but has no sufficient diffusion barrier capability relative to hydrocarbon fuel; wherein the material of the second component (e.g. PBT), in comparison to the material of the first component, has a significantly higher diffusion barrier capability, a reduced swelling capability relative hydrocarbon fuel, a higher mechanical strength, even after hydrocarbon fuel exposure, and a higher wherein the material of the encloses the second component at least up to an injection location (interpreted as any given location that allows for material to be injected thereat) positioned so as to face away from the surface at a distance that is as large as possible or a greatest possible thermal shape stability; first component distance.

Regarding the limitation "wherein the material of the second component is injected into the still formable core of the material of the first component via the injection location", the method of forming the device is not germane to the issue of patentability of the device itself. Therefore, this limitation has not been given patentable weight.

With respect to claim 2, wherein the part is a tubular part and has a tubular wall, and wherein the material of the second component fills most of a length of the tubular wall. Refer to Figure 3.

With respect to claim 4, wherein the part is a tubular part, wherein the first component comprises an annular member having the surface, wherein the material of the second component extends from the annular member to an end of the tubular member remote from the surface. Refer to Figure 3.

With respect to claim 5, wherein the tubular part has a coaxially extending tubular projection (situated within tank opening Ba) projecting into the annular member, wherein between the annular member and the projection an annular groove (between wall of tank opening and outer surface of inner portion of 50a) is formed, wherein an axial thickness of the annular member and a depth of the annular groove are selected such that the axial thickness, after welding the surface to the container, is significantly reduced by lateral flow of melted material (from melt-bonding) of the annular member but a bottom of the annular groove has still a spacing from the container. Refer to Figure 3.

With respect to claim 8, wherein the first component is comprised of polyolefin and is heat-fusible with the thermoplastic material of the container.

With respect to claim 9, wherein the polyolefin is functionalized polyethylene.

With respect to claim 10, wherein the second component comprises PBT.

With respect to claim 12, wherein the part is substantially U-shaped in cross-section and closes off the opening of the container.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Aoki et al (US 6,408,867).

It is unclear whether the first component comprises an electrically conducting additive. Nevertheless, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ such an additive in the first component in order to prevent electrical charging by a relative movement between the fuel and the tubular part in order to reduce the risk of a spark discharge and the ignition of fuel.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kurihara et al (US 2002/0079694).

It is unclear whether the first component comprises an electrically conducting additive. Nevertheless, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ such an additive in the first component in order to prevent electrical charging by a relative movement between the fuel and the tubular part in order to reduce the risk of a spark discharge and the ignition of fuel.

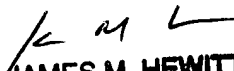
**Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James M Hewitt whose telephone number is 571-272-7084.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Stodola can be reached on 571-272-7087. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
JAMES M. HEWITT  
PRIMARY EXAMINER